

VETOES

law on any matter of 'state concern' applicable to just one charter county or the city [of Baltimore]," this restraint has not been as significant as it might have been.

62 Opinions of the Attorney General at 300-01 (citations omitted).

Applying these standards, House Bill 134 is not a public local law, but a public general law on a subject of State concern: the distribution of State tax revenues. Although the decision to set a particular property tax rate is a home rule power of Baltimore City and Allegany County, the "tax effort" contingency in House Bill 134 is an integral component of a measure that distributes income tax dollars collected from citizens in all of the State's subdivisions. See Board of Public Works v. Baltimore County, 288 Md. 678, 682 (1980).¹

In addition, the "tax effort" provision affects not just Baltimore City or Allegany County, but four subdivisions in all. Under both charter home rule and code home rule, laws affecting more than one county, by definition, are not public local laws. See Article XI-A, § 4 and Article XI-F, § 1.¹⁰

Finally, just as Congress can attach conditions on the receipt of federal funds that, in effect, direct the states or restrain them in the exercise of their sovereign powers if they choose to accept the money, the General Assembly can take similar action with respect to the counties and Baltimore City. One recent example affecting Maryland was a condition on the receipt of certain oil overcharge funds, under which the State had to agree that the funds would be "used as a supplement to, and not a substitute for, otherwise available funding for the program." 71 Opinions of the Attorney General 226, 230 (1986). See also, e.g., South Dakota v. Dole, 483 U.S. 203 (1987); Oklahoma v. Civil Service Commission, 330 U.S. 127 (1947).

III

Conclusion

As the discussion in Part I above made painfully evident, House Bill 134 touches upon constitutional issues that are both exceptionally complex and relatively novel. Although prior decisions of the Court of Appeals and prior opinions of this office are of some assistance, in truth they leave many questions unanswered. We can well understand how the Legislature, seeking to meet the critical needs of Baltimore and the other jurisdictions that are to be aided by this bill, chose a funding method that reasonable people could view as constitutionally self-executing. But after exacting analysis, and with due regard for the fiscal prudence that has been the philosophical anchor of the Budget Amendment and that has given the State of Maryland its national reputation for sound governmental management, we must conclude that another step – an act of appropriation – is required before House Bill 134 can be given effect.

¹⁰ As long as the bill genuinely affects more than one county, it makes no constitutional difference that it does not apply to more than one charter or one code home rule subdivision. See Bill Review Letter on House Bill 1647 (May 16, 1984).